

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	CIVIL NO. CV03-00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	DECLARATION OF LEX R. SMITH
vs.)	
)	
HAWAIIAN EXPRESS SERVICE,)	
INC., et al.,)	
)	
Defendants.)	
)	
)	

DECLARATION OF LEX R. SMITH

I, LEX R. SMITH, hereby declare as follows:

1. I am the attorney for the Defendants Post-Confirmation Trust and am licensed to practice in all of the state and federal courts in the State of Hawaii.
2. I have personal knowledge of the facts stated in this declaration and if called as a witness, I could and would testify to all matters set forth herein of my own knowledge.
3. On March 23, 2006, I caused to be filed the Post-Confirmation Trust's Motion for Attorney's Fees and Costs.

4. On March 28, 2006, I met with Plaintiff's counsel Timothy Hogan. Also present were Thomas H. Yee, Damian C. Capozzola who participated by conference call, Lyle S. Hosoda and Raina P.B. Mead. The purpose of the meeting was to attempt to reach an agreement regarding Plaintiff's and Defendant Post-Confirmation Trust's respective motions for attorney's fees and costs.

5. The parties were unable to reach an agreement.

I declare under penalty of perjury under the laws of the State of Hawaii that the foregoing is true and correct.

Dated: Honolulu, Hawaii, April 6, 2006.

/s/ **Lex R. Smith**
LEX R. SMITH